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CLERK, U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

CENTER FOR DISABILITY ACCESS  
RAYMOND G. BALLISTER, JR., ESQ., SBN 111282  
MARK D. POTTER, ESQ., SBN 166317  
9845 Erma Road, Suite 300  
San Diego, CA 92131-1084  
(858) 375-7385; Fax (888) 422-5191

BY \_\_\_\_\_

Attorney for Plaintiffs, RAFAEL ARROYO, JR. & JUAN MORENO

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

RAFAEL ARROYO, JR.; JUAN  
MORENO,

Plaintiffs,

v.

BODEGA LATINA CORPORATION, A  
DELAWARE CORPORATION; MANN  
ENTERPRISES INC., A Nevada  
Corporation, and DOES 1 through 100,  
inclusive,

Defendants.

Case No. **CV10 2863 CBM** (SS)

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF: AMERICAN'S  
WITH DISABILITIES ACT; UNRUH  
CIVIL RIGHTS ACT; CALIFORNIA  
DISABLED PERSONS ACT;  
NEGLIGENCE**

**DEMAND FOR JURY**

RECEIVED  
CLERK, U.S. DISTRICT COURT

APR 16 2010

CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

Plaintiffs RAFAEL ARROYO, JR., and JUAN MORENO complain of  
Defendants BODEGA LATINA CORPORATION, A DELAWARE CORPORATION;  
MANN ENTERPRISES INC., A Nevada Corporation, and DOES 1 through 100,  
inclusive, (hereinafter referred to as "Defendants") and alleges as follows:

**INTRODUCTION:**

1. This is a Civil Rights action for discrimination against persons with physical disabilities, of which Plaintiff is a member of said class, for violation of the Americans with Disabilities Act and related state laws addressing the Defendants' denial of

1 participation in and provision of an unequal benefit of the services to patrons with  
2 disabilities. Plaintiff seeks injunctive relief and damages for violations of civil rights  
3 and for damages flowing from such violations.

4 **PARTIES:**

5       2. Plaintiff RAFAEL ARROYO, JR. is a California resident with physical  
6 disabilities. He is a T-10 paraplegic who requires a wheelchair for mobility.

7       3. Plaintiff JUAN MORENO is a California resident with physical disabilities.  
8 He is a paraplegic who requires a wheelchair for mobility

9       4. Defendants are or were at the time of the incident the owners and operators  
10 and/or lessors and lessees of the Super Market located at 5702 Firestone Blvd., South  
11 Gate, California.

12       5. Plaintiffs do not know the true names of Defendants, their business capacities,  
13 their ownership connection to the property and business, or their relative  
14 responsibilities in causing the access violations herein complained of, and alleges a  
15 joint venture and common enterprise by all such Defendants. Plaintiffs are informed  
16 and believe that each of the Defendants herein, including DOES 1 through 100,  
17 inclusive, is responsible in some capacity for the events herein alleged, or is a necessary  
18 party for obtaining appropriate relief. Plaintiffs will seek leave to amend when the true  
19 names, capacities, connections, and responsibilities of the Defendants and DOES 1  
20 through 100, inclusive, are ascertained

21 **JURISDICTION:**

22       6. This Court has subject matter jurisdiction over this action pursuant to 28  
23 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
24 Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*

25       7. Pursuant to pendant jurisdiction, an attendant and related cause of action,  
26 arising from the same nucleus of operative facts and arising out of the same  
27 transactions, is also brought under California's Unruh Civil Rights Act, and the  
28 California Disabled Persons Act, which acts expressly incorporate the Americans with

1 Disabilities Act.

2 8. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded  
3 on the fact that the real property which is the subject of this action is located in this  
4 district and that Plaintiff's cause of action arose in this district.

5 **FACTUAL ALLEGATIONS:**

6 9. Plaintiff RAFAEL ARROYO, JR. shopped at the Super Market on February  
7 20, 2010.

8 10. Plaintiff JUAN MORENO has shopped regularly, several times a week, since  
9 July, 2008, including on November 9, 2009, at the Super Market.

10 11. The Super Market is a facility open to the public, a place of public  
11 accommodation, and a business establishment.

12 12. Unfortunately, the Super Market facility presented barriers to persons in  
13 wheelchairs, violations of the Americans with Disabilities Act Accessibility Guidelines  
14 ("ADAAG") and Title 24 of the California Code of Regulations, including, but not  
15 limited to, there was a lack of accessible produce scales and plastic bag dispensers,  
16 there was a lack of an accessible entrance door into the bathroom, and the bathroom  
17 was inaccessible.

18 13. The Plaintiffs personally encountered these violations, which violations  
19 resulted in difficulty to the Plaintiffs and resulted in the Plaintiffs being denied full and  
20 equal access required by law. The Plaintiffs' first hand knowledge of these violations  
21 has dissuaded and deterred them from returning to Defendants' Super Market on  
22 several other occasions.

23 14. Naturally, Plaintiffs ARROYO and MORENO were frustrated, angry and/or  
24 vexed as a result of encountering unlawful conditions, violations of their civil rights,  
25 and the lack of safe, convenient and accessible facilities. Although these injuries are  
26 modest in scope and did not result in any loss of wages or economic damage or medical  
27 care or attention, the continued violation of Plaintiffs' civil rights by these Defendants  
28 and the highly unpleasant emotional distress caused by such unlawful treatment is

1 attributable to the actions or inactions of the Defendants and Plaintiffs seek redress  
2 from these Defendants for such injury.

3       **15.** Plaintiffs would like to return and patronize the Defendants' Super Market  
4 but because of Plaintiffs' knowledge of the existence of the inaccessible conditions and  
5 policies, the Plaintiffs are unable to use the Super Market on a "full and equal" basis  
6 until the Super Market is brought into compliance with the provisions of the Americans  
7 with Disabilities Act Accessibility Guidelines and state accessibility law as pled herein.  
8 Plaintiffs have been and currently are being deterred from returning and patronizing the  
9 Defendants' Super Market.

10 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH**  
11 **DISABILITIES ACT OF 1990** (On behalf of Plaintiffs and Against All Defendants (42  
U.S.C. section 12101, et seq.)

12       **16.** The Defendants are persons who either own, operate, lease or lease to a  
13 place of public accommodation. As such, the Defendants are required to (1) ensure that  
14 all construction, alteration, or modification is barrier free and complies with the  
15 Americans with Disabilities Act Accessibility Guidelines ("ADAAG") and Title 24 of  
16 the California Code of Regulations (aka "California Building Code"); and/or (2)  
17 remove all existing barriers where such removal is "readily achievable." The  
18 Defendants have failed to meet these obligations. The existence of readily achievably  
19 removed barriers and barriers in violation of the ADAAG and/or California Building  
20 Code, including, but not limited to, there was a lack of accessible produce scales and  
21 plastic bag dispensers, there was a lack of an accessible entrance door into the  
22 bathroom, and the bathroom was inaccessible, is unlawful and has resulted in the  
23 Defendants' failure to provide full and equal accommodations, advantages, facilities,  
24 privileges and/or services to the Plaintiffs.

25 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
26 **RIGHTS ACT** (On behalf of Plaintiffs and Against All Defendants) (Cal Civ § 51-53)

27       **17.** The Defendants are persons who either own, operate, lease or lease to a  
28 place of public accommodation or business establishment. As such, the Defendants are



1 required to (1) ensure that all construction, alteration, or modification is barrier free and  
2 complies with the Americans with Disabilities Act Accessibility Guidelines  
3 ("ADAAG") and Title 24 of the California Code of Regulations (aka "California  
4 Building Code"); and (2) remove all existing barriers where such removal is "readily  
5 achievable." The Defendants have failed to meet these obligations. The Defendants  
6 intended the physical and architectural condition of their property. The existence of  
7 readily achievably removed barriers and barriers in violation of the ADAAG and/or  
8 California Building Code, including, but not limited to, there was a lack of accessible  
9 produce scales and plastic bag dispensers, there was a lack of an accessible entrance  
10 door into the bathroom, and the bathroom was inaccessible, is unlawful and has  
11 resulted in the Defendants' failure to provide full and equal accommodations,  
12 advantages, facilities, privileges and/or services to the Plaintiffs.

13       **18.** The acts alleged above, which form the basis of the Plaintiffs' discrimination  
14 claim, are intentional acts.

15 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE CALIFORNIA**  
16 **DISABLED PERSONS ACT** (On behalf of Plaintiffs and Against All  
Defendants) (Cal Civ § 54-54.8)

17       **19.** The Defendants are persons who either own, operate, lease or lease to a place  
18 of public accommodation or a facility open to the public. As such, the Defendants are  
19 required to (1) ensure that all construction, alteration, or modification is barrier free and  
20 complies with the Americans with Disabilities Act Accessibility Guidelines  
21 ("ADAAG") and Title 24 of the California Code of Regulations (aka "California  
22 Building Code"); and (2) remove all existing barriers where such removal is "readily  
23 achievable." The Defendants have failed to meet these obligations. The existence of  
24 readily achievably removed barriers and barriers in violation of the ADAAG and/or  
25 California Building Code, including, but not limited to, there was a lack of accessible  
26 produce scales and plastic bag dispensers, there was a lack of an accessible entrance  
27 door into the bathroom, and the bathroom was inaccessible, is unlawful and has  
28 resulted in the Defendants' failure to provide full and equal accommodations,

1 advantages, facilities, privileges and/or services to the Plaintiffs.

2 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of Plaintiffs and  
3 Against All Defendants)

4 **20.** The Defendants had a general duty and a duty arising under the Americans  
5 with Disabilities Act and the Unruh Civil Rights Act and California Disabled Persons  
6 Act to provide safe, convenient, and accessible facilities to the Plaintiffs in the running  
7 of their Super Market. Their breach of this duty, as alleged in the preceding  
8 paragraphs, has caused injury and damage as alleged above.

9 **PRAYER:**

10 Wherefore, Plaintiffs pray that this court award damages and provide relief as  
11 follows:

12 **1.** For injunctive relief, compelling Defendants to comply with the Americans  
13 with Disabilities Act and the Unruh Civil Rights Act. **Note:** the Plaintiff is not  
14 invoking section 55 of the California Civil Code and is not seeking injunctive relief  
15 under that section.

16 **2.** Damages under the Unruh Civil Rights Act and/or the California Disabled  
17 Persons Act which damages provide for actual damages and a statutory minimum of  
18 \$4,000.

19 **3.** Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to  
20 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3 and Cal. Civ. Proc. § 1021.5.

21 Dated: April 14, 2010

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22  
23  
24 By:

  
25 RAYMOND G. BALLISTER, JR.  
26 Attorneys for Plaintiff  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Dated: April 14, 2010

CENTER FOR DISABILITY ACCESS

By:

  
RAYMOND G. BALLISTER, JR.  
Attorneys for Plaintiff